IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

AMIT JAIPURIA & PRADEEP JAIPURIA, **Plaintiffs,** **vs.** **LINKEDIN CORPORATION, WHODOYOUKNOWAT LLC, and HOOVER'S INC.** **Defendants.**	§ § § § § § § § § § § §	**CASE NO. 6:11-CV-00066** **PATENT CASE**

ORDER

Before the Court is Defendants LinkedIn Corporation and Hoover's Inc.'s (collectively, "Defendants") Motion to Strike Plaintiff's Infringement Contentions (Docket No. 89). Upon consideration of the parties' arguments, the Motion is **GRANTED IN PART** and **DENIED IN PART.**

BACKGROUND

On February 11, 2012, Plaintiffs Amit Jaipuria and Pradeep Jaipuria filed a complaint against LinkedIn Corp., Hoover's Inc., and WhoDoYouKnowAt LLC, alleging infringement of United States Patent Nos. 7,047,202 and 7,761,383. Docket No. 1.[1] On November 23, 2011, the Jaipurias served their infringement contentions (Docket No. 56). The Jaipurias disclosed each claim that is allegedly infringed, identified accused products, and provided a chart which described where claim elements were found within the accused products. However, Hoover's Inc. and LinkedIn argued these contentions are deficient. The parties attempted to meet and confer regarding Defendants' concerns for several months, but ultimately reached an impasse.

[1] Plaintiffs amended their complaint on September 9, 2011 to include Hoovers Inc. in the case. Docket No. 35.

Shortly after the communication breakdown, Defendants filed this motion to strike Plaintiffs' infringement contentions.[2]

APPLICABLE LAW

The Local Patent Rules "exist to further the goal of full, timely discovery and provide all parties with adequate notice and information with which to litigate their cases." *Computer Acceleration Corp. v. Microsoft Corp.*, 503 F. Supp. 2d 819, 822 (E.D. Tex. 2007). Patent Rule 3–1 requires a party asserting infringement to serve infringement contentions on each defending party. These "contentions must be reasonably precise and detailed . . . to provide a defendant with adequate notice of the plaintiff's theories of infringement, [but] they need not meet the level of detail required, for example, on a motion for summary judgment on the issue of infringement." *Realtime Data, LLC v. Packeteer, Inc.*, No. 6:08cv144, 2009 WL 2590101, at *5 (E.D. Tex. Aug. 18, 2009).

Patent Rule 3–1 also requires a party asserting infringement provide each defending party "a chart identifying specifically where each element of each asserted claim is found within each Accused Instrumentality." P.R. 3–1(c). Although the Patent Rules require separate charts for each accused product, the Court has allowed plaintiffs to use a single chart applicable to multiple products where separate charts would be identical for each product. *See ConnecTel, LLC v. Cisco Sys., Inc.*, 391 F. Supp. 2d 526, 528–29 (E.D. Tex. 2005) (Davis, J.) ("[T]he Court ORDERS ConnecTel to designate exemplar accused infringing products and compare those products to each asserted patent on a claim by claim, element by element basis."); *Juxtacomm Techs., Inc., v. Ascential Software Corp.*, 548 F. Supp. 2d 379, 381 (E.D. Tex. 2008) (Davis, J.); *cf. Computer Acceleration Corp. v. Microsoft Corp.*, 503 F. Supp. 2d 819, 823 (E.D. Tex. 2007) (striking plaintiff's infringement contentions against Vista because plaintiff had only charted the

[2] WhoDoYouKnowAt LLC has not joined this motion.

Windows XP product and it was undisputed that Vista and Windows XP, are only seventy percent similar).

ANALYSIS

Multibridge linking code and key elements

Defendants argue that Plaintiffs have not properly charted two key claim elements: "multibridge linking code" and "a key to represent all the multibridge linking codes that have been assigned during the search." Docket No. 86 at 7–10. Specifically, Defendants allege that Plaintiffs have merely parroted the claim language in their contentions and have not actually identified where these claim elements are found in the accused products. *Id.* at 7–8. Since these elements are used throughout the asserted claims, Defendants contend it is impossible to determine Plaintiffs' infringement theories. *Id.* Plaintiffs counter their infringement contentions are sufficient. Plaintiffs cite to several examples in their voluminous infringement contentions to illustrate how Plaintiffs went element-by-element through the asserted claims and provided an explanation of their infringement theory. Docket No. 92 at 5–13.

With respect to "multibridge linking code", Plaintiffs merely allege Defendants' products meet the claim limitation, without actually attempting to explain how the accused products satisfy the asserted claim elements.[3] As for the "key" element, at times Plaintiffs explain how the key is found in Defendants' system, however, there are instances when Plaintiffs simply repeat the claim language.[4] While Plaintiffs do not need to prove their infringement case in their

[3] For example, Plaintiffs allege the Defendants infringe the claim element "assigning a multibridge linking code to each entity found during the search that has satisfied the specific criteria," because "LinkedIn assigns a multibridge linking code to each entity found during the search as reflected in the excerpt from the LinkedIn help file." Docket No. 86, Exhibit 1 at 22. *See also id.* at 31("A multibridge linking code is assigned to each entity in the hierarchical chain."); *id.* at 45 ("LinkedIn will associate a multibridge linking code with the second entity if that entity has criteria that was requested in the search); *id.* at 212 ("A multibridge linking code is assigned to each entity in the hierarchical chain).

[4] *Compare* Docket No. 86, Exhibit 1 at 65 ("LinkedIn assigns a key to represent all the codes that have been assigned during the search. The key is reflected in the hierarchical chain, and can be further represented, reflected

contentions, Plaintiffs "may not rely on vague, conclusory language or simply mimic the language of the claims." *Global Sessions LP v. Travelocity.com LP*, No. 6:10cv671, 2012 WL 1903903, at *2 (E.D. Tex. May 25, 2012). Here, Plaintiffs have failed to go beyond the language of the claims and actually explain how the accused products meet the asserted claim elements. Accordingly, the Court **ORDERS** the Jaipurias to supplement their infringement contentions, outlining how each accused instrumentality meets the disputed claim elements, "multibridge linking code" and "a key to represent all the multibridge linking codes that have been assigned during the search."

Hoover's Connect

Defendants also allege Plaintiffs have not complied with P.R. 3–1(c), which requires a chart identifying each element of each asserted claim that is found within each Accused Instrumentality. *Id.* at 10–13. Plaintiffs' infringement contentions include a footnote which states, "[t]o the extent that "Hoover's Connect" is considered to be a product or system independent of the Hoover's network and system, Plaintiffs' disclosures should be understood to encompass Hoover's Connect." *Id.*, Exhibit 1 at 2. Defendants argue this product should have been charted separately, because it is a different product that does not share functionality with the charted LinkedIn product. *Id.* at 12; Docket No. 93 at 3.

Plaintiffs argue that Hoover's Connect is properly accused, because a party is not required to create multiple charts for each product if these charts would be identical for each product. *Id.* at 13–15. Plaintiffs assert that all available evidence indicates that the current

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and/or embedded in an 'introduction message' that is then passed link-by-link in the chain."), *and id.* at 68 ("LinkedIn assigns and configures a key to represent all the multibridge linking codes that have been assigned during the search. The key is reflected in the hierarchical chain, and can be further represented, reflected and/or embedded in an 'introduction message' that is then passed link-by-link in the chain."); *with id.* at 93 ("LinkedIn creates a key to represent all the multibridge linking codes that have been assigned during the search."), *and id.* at 242 ("Hoover's create a key to represent all the multibridge linking codes that have been assigned during the search").

version of the Hoover's network, which was properly accused in their infringement contentions, functions in the same manner as the Hoover's Connect product. *Id.* at 14. Because the products operate in the same way, Plaintiffs argue the claim charts would be identical for both products.

Plaintiffs are correct — a Plaintiff may use a single chart that applies to multiple products if separate charts would be identical for each product. *See Juxtacomm Techs., Inc. v. Ascential Software Corp.*, 548 F.Supp.2d 379, 381 (E.D. Tex. 2008). However, broad conclusory allegations that the products are similar do not allow Plaintiffs to circumvent the Local Rules. *See Global Sessions LP v. Travelocity.com LP*, No. 6:10cv671, 2012 WL 1903903, at *4 (E.D. Tex. May 25, 2012) (noting that Plaintiff's broad claim that several websites were related to the charted website did not excuse Plaintiff from filing separate claim charts for each website). In this case, Plaintiffs have not explained why these products are similar, rather they simply stated in a footnote that the Hoover's Connect product was encompassed by the infringement contentions. This in no way notifies Defendants of Plaintiffs' infringement theories regarding this product. Accordingly, the Court **ORDERS** the Jaipurias to provide a separate claim chart for the Hoover's Connect product.

CONCLUSION

For the foregoing reasons, Defendants' Motion to Strike is **GRANTED IN PART** and **DENIED IN PART.** The Jaipurias shall supplement their infringement contentions against Hoover's Inc. and LinkedIn Corp. in accordance with this Order by April 12, 2013.

So ORDERED and SIGNED this 27th day of March, 2013.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE